

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 L-03 EB-08 COME-00 STR-04 TRSE-00
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FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC IMMEDIATE 8840

C O N F I D E N T I A L KUWAIT 4780

E.O. 11652: GDS

TAGS: ETRD, KU

SUBJECT: FRIESEN INTERNATIONAL RECEIVES REQUEST FOR BOYCOTT STATEMENT

REF: (A) STATE 199755, (B) 77 KUWAIT A-015

1. IN THE FEW HOURS (EFFECTIVE RAMADHAN WORKING DAY ENDS AT NOON) WE HAVE HAD TO FOLLOW UP ON THIS MATTER, FOLLOWING INFORMATION HAS BEEN DEVELOPED CONCERNING FRIESEN BOYCOTT PROBLEM RAISED REFTEL.

2. DR. NAIM IS DIRECTOR OF KUWAIT MATERNITY HOSPITAL. HE ALSO IS PRESENTLY ACTING AS MINISTRCSOF HEALTH "COMMISSIONING MANAGER" FOR MANAGEMENT CONSULTANCY CONTRACT. HE HAS BEEN COMPLETELY COOPERATIVE WITH US AND IT STRIKES US THE PROBLEM IS NOT DUE TO HOSTILITY OR DEVIOUS ACTIONS ON THE PART OF VARIOUS OFFICIALS, :?75 SIMPLY TO DR. NAIM'S NOT BEING FULLY COGNIZANT OF BOYCOTT REQUIREMENTS AND TO A CERTAIN CONFUSION WITHIN THE KUWAITI GOVERNMENT AS TO PRECISELY WHAT THESE REQUIREMENTS ARE, PARTLY CAUSED BY VARYING PROCEDURES REGARDING CONTRACTS DEPENDING ON THE KUWAIT ENTITY INVOLVED (SEE REF B).

3. DURING INITIAL DISCUSSION E/C SECTION CHIEF HAD WITH DR. NAIM, HE SAID THAT HE HAD BEEN TOLD BY THE OFFICE OF
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THE MINISTER OF STATE FOR LEGAL AFFAIRS THAT ANY WINNER OF GOVERNMENT CONTRACT WOULD NEED TO PROVIDE A STATEMENT THAT IT WAS NOT ON BOYCOTT LIST. WE POINTED OUT THAT THIS WAS NOT POSSIBLE UNDER U.S. LAW AND , IN ANY EVENT, MADE LITTLE SENSE SINCE THE ONLY BODY WHICH COULD PROVIDE SUCH INFORMATION WAS THE KUWAIT BOYCOTT OFFICE. IF HEALTH MINISTRY WISHED SUCH INFORMATION, THIS WAS A MATTER BETWEEN

IT AND THE KUWAIT BOYCOTT OFFICE. DR. NAIM AGREED AND INDICATED THAT HE WOULD BE WILLING TO ASK KUWAIT BOYCOTT OFFICE WHETHER FRIESEN WAS BOYCOTTED.

4. IN SUBSEQUENT CONVERSATION, DR. NAIM SAID THAT UPON FURTHER CHECKING THIS MORNING WITH DIRECTOR OF THE OFFICE FO THE MINISTER OF STATE FOR LEGAL AFFAIRS, ABDUL MOHSIN ABD AL-HAFEZ, LATTER HAD INDICATED THAT WINNER OF GOVERNMENT CONTRACT SUCH AS FRIESEN WOULD NEED TO PROVIDE A CERTIFICATE FROM THE KUWAIT BOYCOTT OF ISRAEL OFFICE INDICATING ITS TENDER WAS IN CONFORMITY WITH THE KUWAIT "UNIFIED LAW OF THE BOYCOTT OF ISRAEL". MR. AL-HAFEZ CONFIRMED THIS POINT TO E/C SECTION CHIEF. SPECIFICALLY, NORMAL PROCEDURE FOLLOWED BY MINISTRY OF PUBLIC WORKS (AND THEREFORE, MOST OTHER MINISTRIES) IS TO REQUIRE COMPANY AGREEMENT TO THE FOLLOWING STATEMENT: ? BEFORE SIGNING THE CONTRACT, THE SUCCESSFUL TENDERER HAS TO PROVIDE A CERTIFICATE FROM THE BUREAU OF BOYCOTT OF ISRAEL IN KUWAIT TO PROVE NO CONTRADICTION BETWEEN THE TENDER AND THE ARTICLES OF LAW NO. 21 OF 1964 IN RESPECT OF THE UNIFIED LAW OF BOYCOTT OF ISRAEL PUBLISHED IN THE OFFICIAL GAZETTE (KUWAIT EL-YOUM) ISSUE NO. 479 DATED 31ST MAY 1964. THIS SAID CONDITION IS OBLIGATORY FOR ALL FOREIGN COMPANIES WHICH HAVE KUWAITI AGENTS OR PARTNERS." (NOTE: TEXT OF LAW PREVIOUSLY SUBMITTED TO DEPARTMENT)

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5. IT WOULD BE USEFUL IF DEPARTMENT COULD ADVISE FRIESEN AND EMBASSY WHETHER SIGNATURE OF DOCUMENT INCLUDING LANGUAGE CITED PARA 4 ABOVE WOULD BE LIKELY TO BE SUBJECT TO U.S. EXPORT ADMINISTRATION REGULATIONS.

6. OUR UNDERSTANDING IS THAT SOME FIRMS HAVE AVOIDED THESE COMPLICATIONS THROUGH SUBMISSION OF THE REQUIRED BOYCOTT OFFICE CERTIFICATE BY THEIR LOCAL AGENT WHO ASSUMES THE FUNCTION OF DEALING WITH WHAT IS REALLY AN INTERNAL BUREAUCRATIC MATTER, I.E. THE KU BOYCOTT OF ISRAEL OFFICE PROVIDES THE MINISTRY CONCERNED WITH AN ASSURANCE THAT TENDER CONFORMS TO KUWAIT BOYCOTT LAWS. FRIESEN, AS WE UNDERSTAND IT, HAS NO LOCAL AGENT.

7. IF THIS PROCEDURE IS ACCEPTABLE, THEN IT WOULD OBIVATE THE NEED FOR THE COMPANY INVOLVED TO SIGN STATEMENT WHICH WOULD INCLUDE CONDITION QUOTED IN PARA 4. IF DEPT PERCEIVES NO OBJECTION, EMBASSY WLD PROPOSE TO RAISE THIS MATTER WITH VARIOUS KUWAITI MINISTRIES, ESPECIALLY MINISTRY OF PUBLIC WORKS. WE HOPE THIS MAY HELP FRIESEN AND OTHER COMPANIES, BUT IT STRIKES US THAT FRIESEN WILL

PROBABLY NEED AN AGENT OR AT LEAST A LAWYER TO
RESOLVE ISSUES RAISED ABOVE.

8. WE DO NOT BELIEVE THAT PROBLEM RAISED BY DR. NAIM
IS ATTEMPT TO COMPLICATE MATTERS FOR FRIESEN, SINCE
LANGUAGE CITED HAS BEEN REQUIRED OF OTHER FOREIGN FIRMS
IN THE PAST.

9. WHILE EMBASSY PLEASED AND PREPARED TO HELP FRIESEN
OUT IN THEIR PROBLEM, WE FEEL THAT FRIESEN'S
INTERESTS MIGHT BE BEST SERVED BY THEIR SENDING A REPRESENTATIVE TO KUWAIT TO DEAL DIRECTLY WITH THIS MATTER.
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Sent Date: 23-Aug-1977 12:00:00 am
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